

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOHN M. ABEYTA,

Plaintiff,

v.

No. 1:21-cv-832 KK/KRS

UNITED STATES of AMERICA,

Defendant.

ORDER TO SHOW CAUSE

THIS MATTER comes before the Court *sua sponte*. Plaintiff initiated this action on August 25, 2021. (Doc. 1). The docket does not reflect that Plaintiff has served Defendant, and no answer or other responsive pleading has been filed in this case. Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff was required to serve Defendant within ninety days of filing the complaint. In addition, Rule 41(b) of the Federal Rules of Civil Procedure authorizes the Court to dismiss an action *sua sponte* for failure to prosecute. *See Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003); *see also* D.N.M. LR-Civ. 41.1 (“A civil action may be dismissed if, for a period of ninety (90) calendar days, no steps are taken to move the case forward.”). More than ninety days have passed since Plaintiff took any step to move this case forward.

IT IS THEREFORE ORDERED that **on or before January 10, 2022** Plaintiff must provide the Court with a written explanation showing good cause why this case should not be dismissed for failure to prosecute.



KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE